



26 November 2021

## **PUBLIC CENSURE OF BLACKWELL GLOBAL HOLDINGS LIMITED BY THE NZ MARKETS DISCIPLINARY TRIBUNAL FOR BREACH OF NZX LISTING RULES 3.5.1 AND 3.26.1**

1. The NZ Markets Disciplinary Tribunal (*Tribunal*) has approved a settlement agreement between NZX Limited (*NZX*), acting by and through NZX Regulation Limited (*NZ RegCo*), and Blackwell Global Holdings Limited (*BGI*) dated 12 November 2021 (*Settlement Agreement*).

### **Background**

2. Under the Rules, when an Issuer releases its financial information for its half and full year results to the market, it must also:
  - a. directly enter certain data into NZX's Market Announcement Platform (*MAP*), including a Net Tangible Assets (*NTA*) value which represents the after tax **dollar** value per share; and
  - b. complete and release an NZX Results Form in the template provided, which includes a field for "Net tangible assets per Quoted Equity Security". A **dollar** amount for the current period and prior comparable period must be entered.
3. NTA data entered into MAP is used to populate the summary of an Issuer's corporate and securities information displayed on *nzx.com*.
4. The purpose of the NZX Results Form is to enable investors to review a summary of an Issuer's financial results in an easily comparable format.

### **Factual background**

5. BGI is a New Zealand incorporated listed company, with its ordinary shares quoted on the NZX Main Board, and is bound by the NZX Listing Rules (*Rules*).
6. On 27 November 2019, BGI released its preliminary results for the half year to 30 September 2019. BGI incorrectly entered its NTA in MAP and in the NZX Results Form as \$0.15 per share, when its NTA was 0.15 cents per share and in the NZX Results Form \$0.28 for the prior comparable period, when its NTA was 0.28 cents per share for the half year to 30 September 2018.
7. On 13 December 2019, BGI released its interim report and again incorrectly entered its NTA in MAP and in the NZX Results Form as \$0.15 per share (instead of \$0.0015) and, in the NZX Results Form, \$0.28 for the prior comparable period (instead of \$0.0028).
8. In both instances, NZX identified the MAP data entry error and corrected it on *nzx.com*. Due to an oversight by NZX, neither BGI or NZ RegCo were advised of the MAP data entry

errors or that NZX had corrected them. The NZX Results Forms continued to show incorrect NTA information.

9. Between 9 June 2020 and 22 June 2020, BGI's share price increased from \$0.007 to \$0.016 (an increase of around 1 cent or 129%) with higher volumes of shares traded.
10. On 22 June 2020, NZ RegCo issued a Price Enquiry to BGI noting the 129% increase in BGI's share price and requesting confirmation from BGI that it continued to comply with Rule 3.1.1. In its market response, BGI's Directors confirmed that BGI continued to comply with Rule 3.1.1 and that it was not aware of Material Information that should be released to the market.
11. On 25 June 2020, BGI released its preliminary full year results announcement for the year ended 31 March 2020. BGI again incorrectly entered its NTA in MAP and in the NZX Results Form as \$0.15, rather than the correct figure of \$0.0015 and the prior comparative figure as \$0.22 rather than \$0.0022. On this occasion the error was not identified and rectified by NZX. While the NTA was correctly disclosed in the preliminary announcement and accompanying financial statements, nzx.com displayed the incorrect NTA information.
12. NZX's MAP data system is configured to generate alerts for Issuers if certain trigger events occur. When BGI submitted the NTA data on 25 June 2020, BGI received a warning in MAP that the NTA value entered varied by greater than 10% from the last recorded figure. BGI subsequently advised NZX that the warning was misinterpreted as relating to movements in BGI's balance sheet, and did not lead to BGI amending the incorrect NTA figure.
13. Following a period of increased trading in BGI from 6 July to 23 July 2020, which saw BGI's price move from \$0.016 to \$0.093 (an increase of around 8 cents or 481%), NZ RegCo issued a further Price Enquiry. At that time BGI advised that it was not aware of any matter to explain the recent change to BGI's share price.
14. NZ RegCo subsequently assessed that the NTA was potentially incorrect, and sought clarification from BGI. BGI's shares were placed into a trading halt on 23 July 2020, pending validation by BGI. BGI confirmed that the NTA figure was incorrect, and released a market announcement to this effect at 4.02pm. Trading in BGI's shares resumed on 24 July 2020, and BGI's share price fell from \$0.091 to \$0.043 that day, falling further to \$0.015 by 31 July 2020.
15. The period immediately prior to the correction of the NTA figure, from approximately 13 July 2020 onwards, also saw social media discussion concerning BGI on Facebook's (members only) "Sharesies' Share Club" page and chat website Sharetrader.co.nz. It appears this may have contributed to the increased interest in BGI by retail investors, with the increased interest having a consequent impact on the trading in, and price momentum of, BGI's shares. Trading volumes had increased more than ten-fold in the period following the publication by BGI of the incorrect NTA figure and before NZX's remedial action, compared with the long-term average for the period before the release of the incorrect NTA figure.
16. While it is not possible to assess the exact extent of a cause and effect relationship, NZ RegCo considered on a balance of probabilities that the incorrect NTA figure contributed to the significant volume and price impact on BGI's shares observed in July 2020.
17. BGI did not accept that the error could have been the primary cause of the trading increase since the NZX Results Form showed a deterioration in net assets from the prior period, the preliminary announcement correctly stated BGI's NTA, BGI's price and volume had already significantly increased in June prior to the error, and the lack of any reference to the NTA in any of the social media posts prior to 22 July 2021.

18. NZ RegCo received multiple complaints about losses which are alleged to have resulted from investment decisions made in BGI during July 2020 based on BGI's incorrect NTA. While NZ RegCo was not able to quantify the extent of that harm caused by the incorrect NTA being published, or whether in fact investors placed any reliance on BGI's NTA, it noted that BGI's share price dropped over 80% in a short period following the correction of the NTA data.
19. After an investigation, NZ RegCo determined that BGI had breached:
  - a. Rule 3.5.1 by providing incorrect NTA information in the NZX Results Form. NZ RegCo considers that where Rule 3.5.1 requires Issuers to provide certain items of information the provision of incorrect information breaches the Issuer's obligation under the Rule; and
  - b. Rule 3.26.1 by entering incorrect NTA information in MAP. NZ RegCo considers that Rule 3.26.1 requires Issuers to release information in accordance with the requirements of MAP.

### **Determination**

20. BGI accepts the findings by NZ RegCo that it breached Rules 3.5.1 and 3.26.1 in relation to the entry of incorrect NTA data on 25 June 2020. BGI accepts that a penalty should be imposed by the Tribunal for these breaches.
21. The Tribunal has considered the appropriate penalties, in light of the NZ Markets Disciplinary Tribunal Procedures (Procedures). The Tribunal considers that BGI's breaches fall under Penalty Band 2 on the basis that:
  - a. the breaches were of an administrative nature in that they related to completing the template NZX Results Form and entering data into MAP. The NTA contained in BGI's financial statements released at the same time was correct;
  - b. the breaches adversely impacted on NZX's market;
  - c. the breaches do not appear to have been intentional, although they arose out of what the Tribunal considers to be a significant lack of care; and
  - d. BGI's processes were inadequate. No verification was done to ensure the accuracy of the NZX Results Form or the data entered into MAP.
22. The Tribunal considered that there were aggravating factors in this case:
  - a. The Tribunal considers that BGI demonstrated a significant lack of care and due process when it repeatedly provided incorrect NTA information to the market. BGI failed to adequately consider the warning generated by the MAP data system and failed to validate the information entered in the NZX Results Form.
  - b. BGI had no compliance or operational processes in place to verify the accuracy of the NZX Results Form or the data entered into MAP.
  - c. Having received a Price Enquiry from NZ RegCo on 22 July 2020, BGI failed to identify any potential cause. Beyond asking its Board and senior management if they were aware of any reasons for the increase in share price and trading volumes, BGI took no further action to investigate.
  - d. The breaches adversely affected NZX's market and posed a risk to investor confidence in the integrity of NZX's market. The Tribunal considers that investors should have been able to rely on the accuracy of the information available on nzx.com, regardless of whether they had reviewed the full financial statements.

- e. As a result of the breaches on 25 June 2020, an incorrect NZX Results Form was published by BGI, and incorrect NTA information was displayed on nzx.com, for 29 days.
  - f. The breaches were recurring, with BGI having entered incorrect NTA information on three separate occasions.
23. The Tribunal also considered that there were mitigating factors:
- a. Due to an oversight by NZX, BGI was not advised of its error on the first two occasions it occurred.
  - b. BGI has since changed its practices to now seek external review of its preliminary announcements, NZX Result Form and data entry into MAP.
  - c. The breach did not result in any financial benefit or commercial advantage to BGI.
  - d. BGI reached a settlement in this matter.
24. Taking these aggravating and mitigating factors into account, the Tribunal considers that the penalty of \$40,000 agreed to by NZX and BGI, together with this public censure, is appropriate.

### **Penalties**

25. NZX and BGI have agreed that:
- a. A public censure will be made by the Tribunal;
  - b. BGI will pay to the NZX Discipline Fund a financial penalty of NZ\$40,000 for the breach of Rules 3.5.1 and 3.26.1;
  - c. BGI will pay the costs incurred by the Tribunal (plus GST, if any); and
  - d. BGI will pay a contribution to the costs incurred by NZX (plus GST, if any) in bringing this proceeding.

### **Approval**

26. The Settlement Agreement is approved by the Tribunal pursuant to NZ Markets Disciplinary Tribunal Rule 8, and as such, the Settlement Agreement is the determination of the Tribunal.

### **Censure**

27. The Tribunal hereby censures BGI for breaches of Rules 3.5.1 and 3.26.1.

### **The Tribunal**

28. The Tribunal is a disciplinary body which is independent of NZX and its subsidiaries. The Financial Markets Authority approves its members. Under the NZ Markets Disciplinary Tribunal Rules, the Tribunal determines and imposes penalties for referrals